



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
HOME LAUNDRY COMPANY }

Appearances:

For Appellant: Fred M. Davis, Accountant

For Respondent: Chas. J. McColgan, Franchise Tax Commissioner

O P I N I O N

This is an appeal pursuant to Section 25 of the Bank and Corporation Franchise Tax Act (Chap. 13, Stats. 1929, as amended) from the action of the Franchise Tax Commissioner in overruling the protest of Home Laundry Company, a corporation, to a proposed assessment of an additional tax in the amount of \$221.41 for the year 1932 based upon its return for the year ended December 31, 1931.

In its return for the year ended December 31, 1931, Appellant computed a deduction for depreciation of its buildings, warehouse, machinery and fixtures located in San Francisco upon the basis of what it considered was the fair market value of such property as of January 1, 1928. As so computed, the deduction for depreciation amounted to a sum \$20,328.74 greater than if computed upon the basis employed for Federal income tax purposes. The Commissioner allowed a deduction for depreciation computed upon the basis employed for Federal income tax purposes but disallowed the additional amount on the grounds that Appellant had not satisfactorily established the fair market value of its property as of January 1, 1928.

Section 8(f) of the Act, as it read during the year for which the additional assessment in question was proposed, provided that depreciation may be computed either upon the basis employed for Federal income tax purposes or upon the basis provided in Section 19 of the Act. Section 19, provided in the case of property acquired prior to January 1, 1928, that the basis should be the fair market value of the property as of said date,

In view of these provisions, it would seem that Appellant was entitled to compute depreciation upon the basis of the fair market value of its property as of January 1, 1928, provided that value can be established.

Appellant claims that its property had a fair market value as of January 1, 1928 in excess of \$500,000.00. This value was arrived at by taking the reproduction cost new, less depreciation, of the property, as determined by an appraisal company

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as of June 1927.

It appears, however, that the total fair market value of the property? as of the first Monday in March 1928, computed upon the basis of the amount for which the property was assessed for taxation by the City and County of San Francisco during the year 1928, assuming that it was assessed at 44.83% of its actual fair market value, the average amount at which property was assessed in San Francisco during that year (See p. 28 of the Board's report for the years 1927-28), was but \$117,125.00. In this connection, it is to be observed that although the amount for which property is assessed for local taxation may not be technical evidence of the fair market value of the property, we have held in prior appeals that it is a factor which may be considered by us in determining the fair market value (See Appeal of The Richard Corporation, decided by us on April 14, 1934, and Appeal of American Dredging Company, decided by us on April 23, 1934).

In view of these conflicting values and in view of the fact that the reproduction cost new, less appreciation, of property, alone considered, is not conclusive evidence of the fair market value of the property, we must conclude that Appellant has not satisfactorily established that its property in question had as large a fair market value on January 1, 1928 as claimed by Appellant. Accordingly, we must hold that the Commissioner acted properly in disallowing as a deduction the additional depreciation claimed by Appellant.

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the action of Charles J. McColgan, Franchise Tax Commissioner, in overruling the protest of Home Laundry Company, a corporation, against a proposed assessment of an additional tax in the amount of \$221.41 based upon the return of said corporation for the year ended December 31, 1931, pursuant to Chapter 13, Statutes of 1929, as amended, be and the same is hereby sustained.

Done at Sacramento, California, this 21st day of May, 1934, by the State Board of Equalization.

R. E. Collins, Chairman
Fred E. Stewart, Member
Jno. C. Corbett, Member
H. G. Cattell, Member

ATTEST: Dixwell L. Pierce, Secretary